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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/810,629	03/16/2001	Dan Edward Curtis	RSW920010035US1	7357

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EXAMINER

LE, DAVID Q

ART UNIT PAPER NUMBER

3621

DATE MAILED: 07/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/810,629

Applicant(s)

CURTIS ET AL.

Examiner

David Q Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

1. The Examiner has pointed out particular references contained in the prior art of record in the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claims, other passages and figures apply as well. It is requested from the Applicant, in preparing the response, to consider fully the entire references as well as the context of all passages in the cited references as potentially teaching all or part of the claimed inventions.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1, 5-6** is rejected under 35 U.S.C. 102(e) as being anticipated by Gershman et al., US Patent No. 6,199,099 B1.

As per **claim 1**.

Gershman discloses

A method for characterizing a service provider (Abstract; Fig 1A, 16, associated text; C34, L8-42), comprising the acts of:

- a) gathering information on characteristics of a service provider;
- b) analyzing the information to provide an outcome;
- c) generating a report responsive to the outcome; and

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d) providing the report to at least two clients of the service provider;
wherein the acts of analyzing, generating, and providing are performed by a management service.

As per **claims 5 and 6**.

Gershman discloses all the limitations of claim 1.

Gershman further teaches that his reports will be available to clients on-line (Fig 16, associated text) as well as in hard copy (C46, L64). Therefore Gershman anticipates both claims 5 and 6:

[claim 5] the report comprises hard copy.

[claim 6] the report comprises soft copy.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 2-4, 7-30** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Gershman** and further in view of **Brockman et al.**, US Patent Publication No. US 2002/0123919 A1.

As per **claims 2-3**.

Gershman discloses all the limitations of claim 1.

Gershman does not specifically disclose that the service providers are ASPs and/or ISPs. However he does teach that all types of vendors/suppliers/service providers may be targets for analysis reports (Fig 1A).

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Brockman discloses a management service method and system that targets a telecommunications service provider (Abstract; Summary of the Invention). ASPs and ISPs are vendors playing major roles in business applications and telecommunications.

Therefore it would have been obvious for one ordinarily skilled in the art at the time the invention was made to have adapted Gershman's system to many different types of providers, including telecommunications vendors such as ISPs, as taught by Brockman, and/or to ASPs. This would be because the system can easily be adapted to any type of provider, and as such, would increase the revenue stream for the management service. Such a system would meet all the limitations of claims 2-3:

[claim 2] the service provider is an ASP.

[claim 3] the service provider is an ISP.

As per **claim 4**.

Gershman discloses all the limitations of claim 1.

Neither Gershman nor Brockman specifically recites

... the act of providing comprises the act of selling the report.

Gershman's system is directed toward consumers and Brockman's to businesses. However it's obvious that both systems are designed to offer services for payment from their target audiences. Therefore it would have been obvious to one ordinarily skilled in the art at the time the invention was made that management reports such as those contemplated by both references would not be offered free of charge. Indeed, such detailed and useful reports would fetch good prices and will increase potential revenues for the management service.

As per **claims 7, 11, 15, 19, 23, 27**.

Gershman in view of Brockman disclose most of the limitations of these claims, namely:

A method for characterizing a service provider comprising the acts of

- a) gathering information on characteristics of a service provider;
- b) analyzing the information to provide an outcome;
- c) generating a report responsive to the outcome; and
- d) providing the report to at least two clients of the service provider;

wherein the acts of analyzing, generating, and providing are performed by a management service.

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As per the obviousness analysis used in claims 2 and 3 above, it would have been obvious to one ordinarily skilled in the art at the time the invention was made to apply Gershman's and Brockman's systems to ASPs and ISPs.

In addition, Gershman teaches that "availability" of products/services is a significant characteristic for customers to learn about and make decisions on (Summary of the Invention; Fig 10A, associated text; C2, L65). Brockman, on the other hand, discloses that "performance" is yet another yardstick by which clients should measure their intended or current vendors (Par. 17, 66-67, 106-109). Other significant characteristics such as price, customer service, and others may be used in the analyses and reports, as taught by both references.

Therefore it would have been obvious to one ordinarily skilled in the art at the time the invention was made to have included "performance", "availability", and "security" the main characteristics to analyze and report on, in the case of ASPs and ISPs, because those are by far the most important features distinguishing one vendor from another in this field. As such, the systems set up with these characteristics as report criteria would meet all the remaining limitations of claims 7, 11, 15, 19, 23, and 27.

As per **claims 8, 12, 16, 20, 24, and 28.**

Gershman in view of Brockman discloses all the limitations of claims 7, 11, 15, 19, 23, and 27, respectively.

Using the same analysis as for claim 4 above, Gershman and Brockman further disclose that ... the act of providing comprises the act of selling the report.

As per **claims 9, 13, 17, 21, 25., and 29.**

Gershman in view of Brockman discloses all the limitations of claims 7, 11, 15, 19, 23, and 27, respectively.

Gershman further discloses (see claim 5 above):
..the report comprises hard copy.

As per **claims 10, 14, 18, 22, 26, and 30.**

Gershman in view of Brockman discloses all the limitations of claims 7, 11, 15, 19, 23, and 27, respectively.

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Gershman further discloses (see claim 6 above):

..the report comprises soft copy.

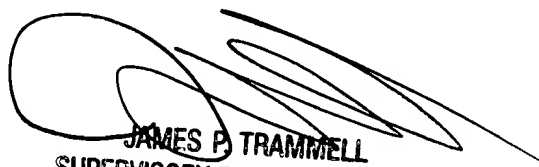
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Q Le whose telephone number is 703-305-4567. The examiner can normally be reached on 8:30am-5:30pm Mo-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P Trammell can be reached on 703-305-9768. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-8494 for regular communications and 703-746-8494 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

DQL
June 27, 2003


JAMES P. TRAMMELL
SUPERVISORY PATENT EXAMINER
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